

## DEPARTMENT OF FINANCE BILL ANALYSIS

**AMENDMENT DATE:** July 2, 2008  
**POSITION:** Oppose  
**SPONSOR:** Epilepsy California

**BILL NUMBER:** SB 1394  
**AUTHOR:** A. Lowenthal

### **BILL SUMMARY:** Lapse of Consciousness: Reports to DMV

This bill would eliminate the mandatory requirement for physicians to report to the Department of Motor Vehicles (DMV) every patient whom they diagnose with a condition characterized by lapses of consciousness. Reports would be required for patients diagnosed with Alzheimer's disease or related disorders and other specified conditions.

### **FISCAL SUMMARY**

According to DMV, this bill would result in minimal savings due to the reduction in lapse of consciousness referrals and corresponding reexaminations performed by DMV. DMV indicates that, due to the permissive referrals by physicians authorized in this bill, there likely will be an increase in the number of referrals to DMV made by law enforcement or family members which could result in additional reexaminations performed by DMV.

### **COMMENTS**

Finance opposes this bill because discretionary, rather than mandatory, reporting requirements for physicians of individuals with conditions that could lead to a lapse of consciousness could result in an increase in traffic collisions and in the state's mileage death rate resulting from an increase in impaired drivers.

### **ANALYSIS**

#### A. Programmatic Analysis

**Existing law** requires all physicians to report to the local health officer any patient 14 years or older who has been diagnosed with lapses of consciousness disorders such as seizures, brain tumors, narcolepsy, sleep apnea, and epilepsy. Other reportable conditions include Alzheimer's disease and related disorders, although these are technically characterized by dementia and not loss of

Analyst/Principal (0744) J. Gregg	Date	Program Budget Manager Mark Hill	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved_____
			Position Disapproved_____

<b>BILL ANALYSIS</b>	Form DF-43 (Rev 03/95 Buff)
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A. Lowenthal

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SB 1394

consciousness, and abnormal metabolic states such as those associated with diabetes. The local health officer is then required to report the patient and his or her condition to DMV, which then sends a notice of reexamination to the driver.

**This bill would:**

- Eliminate the mandatory requirement, beginning January 1, 2010, that physicians report every patient they have diagnosed as having suffered a lapse of consciousness, except under specified circumstances.
- Require a physician, beginning January 1, 2010, to report specified information directly to the DMV in writing, as opposed to the local health officer, regarding certain patients they have diagnosed with Alzheimer's disease, dementia, or other disorders characterized by lapses of consciousness.
- Specify a report to DMV would not be required if the physician determines that the disorder can and likely will be controlled and stabilized within 30 days of the initial diagnosis and that the patient's condition during the 30-day period does not pose an undue risk to public safety.
- Require a physician to report a dangerous driver at the *conclusion* of the 30-day treatment period, if, *during* the 30-day treatment period the patient's condition fails to stabilize and the physician determines that the patient poses an imminent risk to the motoring public.
- Require DMV, upon receipt of a physician's report or request for reexamination, to reexamine the person's qualifications to operate a vehicle, and make a determination whether to restrict, make subject to terms and conditions of probation, revoke, or suspend a license based on the evaluation, reexamination, and assessment provided by the reporting physician. Another licensing action to be noted is for DMV to take "no action" upon the driving privilege when none is warranted.
- Require DMV to administer a behind the wheel drive test for a person subject to reexamination as a result of a lapse of consciousness.
- Require DMV, in consultation with appropriate professional medical organizations, to develop physician reporting forms on or before January 1, 2010, and, in cooperation with the Department of Public Health and in consultation with appropriate professional medical organizations, to adopt regulations by January 1, 2010, defining disorders characterized by recurrent lapses of consciousness and listing those disorders that do not require reporting under this bill.
- Exempt a physician from criminal and civil liability for making a report authorized or required by this bill.

**Discussion:** We understand the intent of this bill is to reduce the incidents of unnecessary drivers' license suspensions by reducing the incidents of lapse of consciousness reporting to DMV. The author's office notes that there are many persons who suffer only a single episode of a lapse of consciousness or who have a condition that is easily controlled that do not pose a threat to public safety.

The author's office cites studies that examined some of the impacts of mandatory physician reporting. One study found epileptic patients were more likely to inform their physician of seizure activity when physician reporting was not mandatory. Consequently, as a result of mandatory reporting, epileptic patients may fail to obtain appropriate care for their condition, which may in turn increase their risk to experience a collision.

However, by removing mandatory reporting requirements and providing physicians the discretion to report lapse of consciousness incidents to DMV, this bill could result in more impaired drivers with medical conditions that could adversely affect their driving abilities. This could lead to an increase in traffic collisions and the mileage death rate.

SB 1394

## B. Fiscal Analysis

According to DMV, this bill would result in minimal savings due to the reduction in lapse of consciousness referrals and corresponding reexaminations performed by DMV. DMV indicates that, due to the permissive referrals by physicians authorized in this bill, there likely will be an increase in the number of referrals to DMV made by law enforcement or family members which could result in additional reexaminations performed by DMV.

		SO	(Fiscal Impact by Fiscal Year)						
Code/Department	LA	(Dollars in Thousands)							
Agency or Revenue	CO	PROP							Fund
Type	RV	98	FC	2008-2009	FC	2009-2010	FC	2010-2011	Code
2740/DMV	SO	No		-----	No Fiscal Impact	-----			0044
4265/PublicHealth	SO	No		-----	No Fiscal Impact	-----			0001
<u>Fund Code</u>	<u>Title</u>								
0001	General Fund								
0044	Motor Vehicle Account, STF								